

REMARKS:

Claims 18-24 are pending in the present application. In the Office Action dated August 1, 2002, claims 18-20 and 23-24 were rejected. Claims 21-22 were not considered because they were directed to an invention that is independent or distinct from the invention originally claimed.

Rejection of Claims 18, 19 and 24
Based on 35 U.S.C. §103(a)

Claims 18, 19 and 24 were rejected under 35 U.S.C. §103(a) as being unpatentable over Zlokarnik et al, Okumura et al, Chang, or Kite in view of Bringle, Wickens et al, Hayes et al, Tsumura et al, or Okey et al. The Office Action stated that the primary references (Zlokarnik, Okumura, Chang and Kite) disclose biological treatment with jet aeration of recirculated biosolids solution.

The Office Action then stated that the claims differed from these references in recitation of monitoring and adjusting a physical property and adjusting the mixing of the solution with the gas. The Office Action concedes that the primary references are lacking in two of the three steps recited in independent claim 18.

The Office Action then relied on the secondary references (Hayes, Tsumura, Okey, Bringle and Wickens) for controlling ORP or dissolved oxygen. However, those Office Action does not identify where those references teach or suggest controlling the oxygen or oxygen/reduction potential by the jet aeration device. The Office Action does not identify where the primary the secondary references disclose at least one of the elements set forth in the rejected claims, and a *prima facie* case of obviousness has not been set forth in the Office Action.

The Office Action states it is well known to use a physical property to control the oxygen in a biological treatment system. However, this says nothing about such control **by a jet aeration device**. Claim 18 requires "adjusting the mixing of biosolids solution with the oxygen-containing gas stream **by the jet aeration device** such that sufficient oxygen is supplied to satisfy oxygen demand", and claim 24 requires "means for adjusting **the jet aeration device** in response to the sensed oxygen/reduction potential of the biosolids solution in the reactor". The Office Action does not identify where the prior art teaches or suggests controlling the oxygen or oxygen/reduction potential by the jet aeration device. As a result, the Office Action has failed to set forth a *prima facie*

case of obviousness because it does not show that the prior art references teach or suggest all the claim limitations.

**Rejection of Claims 18-20, 23 and 24 Based On
Obviousness-Type Double Patenting**

Claims 18-20, 23 and 24 were rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-8 of U.S. Patent No. 5,948,261 to Pressley ("the Pressley '261 patent") and claim 1 of U.S. Patent No. 6,168,717 to Pressley et al. ("the Pressley et al. '717 patent").

Applicants submit herewith a Terminal Disclaimer as requested by the Office Action, with the understanding that, in Applicants' view, the claims of the present application are not obvious in view of the claims of the Pressley '261 patent or the claim of the Pressley et al. '717 patent. Attached to the Terminal Disclaimer are the assignment documents which establish the common ownership of the present application and the Pressley '261 patent and the Pressley et al. '717 patent.

**Rejection of Claims 18-20, 23, and 24
Based On U.S. Patent No. 5,948,261**

Claims 18-20, 23, and 24 were rejected under 35 U.S.C. §103(a) as obvious over the Pressley '261 patent. The Office Action stated that the rejections based on the Pressley '261

patent might be overcome by a showing of common ownership at the time the invention was made.

In response, Applicants have submitted herewith the declaration of Richard L. Pressley and assignment documents showing that the present application and the Pressley '261 patent are currently owned by the same entity, Thermal Process Systems, LLC. Mr. Pressley's declaration establishes that the subject matter being claimed in the present application and in the Pressley '261 patent were commonly owned by Thermal Process Systems, LLC, at the time the inventions were made.

It is respectfully submitted that claims 18-20, 23 and 24 are allowable in view of the foregoing remarks, the Terminal Disclaimer, and the Pressley Declaration submitted herewith. Reconsideration of this application is respectfully requested and a Notice of Allowability is respectfully solicited.

Please charge any fees incurred in connection with the submission of the Amendment responding to the Office Action dated August 1, 2002 to Deposit Account No. 13-0017.

Respectfully submitted,

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